

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

BERNITTA BARRETT,

Plaintiff,

v.

METROPOLITAN TRANSIT
AUTHORITY OF HARRIS COUNTY
AND HARLIN BRYANT,

Defendants.

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CIVIL ACTION NO.

H: 17-cv-1697

INDEX OF MATTERS FILED

Defendant, United States of America, on behalf of federal defendant employee, Harlin Bryant provides the following pursuant to Local Rule 81:

1. All executed process in the state case (attached);
2. All pleadings asserting causes of action, e.g. petitions, amended petitions, and all answers to such pleadings (attached);
3. All orders signed by the state court judge (attached);
4. The docket sheet (attached); and,

5. A list of all known counsel of record, including addresses, telephone numbers and parties represented (attached).

Respectfully submitted,

ABE MARTINEZ
Acting United States Attorney

/s/ Fred T. Hinrichs

FRED T. HINRICHS
Assistant United States Attorney
Attorney in Charge
Texas Bar No. 24003580
1000 Louisiana, Ste. 2300
Houston, Texas 77002
(713) 567-9529 – Telephone
(713) 718-3303 - Facsimile
Fred.Hinrichs@usdoj.gov
Attorney for Harlin Bryant

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing pleading was electronically served through the court's electronic filing system, or by U.S. Mail postage prepaid, on this 6th day of June 2017, to the following counsel of record:

John A. Daspit
Brent W. Randel
440 Louisiana St., Suite 1400
Houston, Texas 77002

Jon P. Bohn
P.O. Box 61429
Houston, Texas 77208-1429

/s/ Fred T. Hinrichs

Assistant U.S. Attorney

HCDistrictclerk.com BARRETT, BERNITTA vs. METROPOLITAN TRANSIT 6/6/2017
AUTHORITY OF HARRIS COUNTY
Cause: 201718994 CDI: 7 Court: 113

DOCUMENTS

Number	Document	Post Jdgm	Date	Pgs
restricted	Citation		06/02/2017	2
restricted	Defendant's Original Answer and Affirmative Defenses		04/24/2017	3
restricted	Defendant's Original Answer and Affirmative Defenses		04/24/2017	3
restricted	Citation (Metro)		04/04/2017	1
restricted	Civil Process Pick-Up Form		03/21/2017	1
restricted	Plaintiff's Original Petition		03/20/2017	6
-> restricted	Civil Case Information Sheet		03/20/2017	2
-> restricted	Civil Process Request		03/20/2017	2

3/20/2017 5:05:15 PM
Chris Daniel - District Clerk
Harris County
Envelope No: 15962692
By: CUERO, NELSON
Filed: 3/20/2017 5:05:15 PM

2017-18994 / Court: 113

CAUSE NO. _____

BERNITTA BARRETT

Plaintiff,

v.

METROPOLITAN TRANSIT AUTHORITY
OF HARRIS COUNTY and
HARLIN BRYANT

Defendants.

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IN THE DISTRICT COURT

HARRIS COUNTY, TEXAS

JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

Plaintiff, Bernitta Barrett, complains of Metropolitan Transit Authority of Harris County (hereinafter, as "METRO") and Harlin Bryant (collectively, as "Defendants"), and would respectfully show the Court that:

Discovery Control Plan

1. Plaintiff intends to conduct discovery in this matter under Level 3 of the Texas Rules of Civil Procedure.

Jurisdiction and Venue

2. This is a claim brought under the common law of Texas and the Texas Tort Claims Act (TTCA), TEX. CIV. PRAC. & REM. CODE §101. The Court has jurisdiction over this claim because the TTCA waives a defendant's sovereign and/or governmental immunity for claims involving personal injury, death, or property damage caused by the negligent operation or use of a motor-driven vehicle or motor-driven equipment by the defendant's employee, if the employee would be personally liable to the plaintiff under Texas law. TEX. CIV. PRAC. & REM. CODE §101.021(1). This claim, as set out more fully below, involves personal injury caused by the negligent operation of a motor-driven vehicle by Defendant METRO's employee, who is not a

party to this suit but would be liable to Plaintiff under Texas law. Liability in this matter also arises under Tex. Civ. Prac. & Rem. Code §101.0215(22), (24). No exception to the waiver of immunity applies to reinstate Defendant METRO's sovereign and/or governmental immunity for this claim.

3. Plaintiff gave Defendant METRO proper notice as required by the Tex. Civ. Prac. & Rem. Code §101.101(a). Plaintiff provides notice as required by the TTCA through service of this petition, which notifies Defendant METRO of the required information. Service of this petition will have been perfected within six months of the incident giving rise to the claim.

4. Venue is proper in Harris County because all or a substantial part of the events or omissions giving rise to the claim occurred in Harris County, Texas.

Statement Regarding Monetary Relief Sought

5. Pursuant to Texas Rule of Civil Procedure 47(c), Plaintiff seeks monetary relief over \$200,000.00 but not more than \$1,000,000.00, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney's fees and judgment for all other relief to which Plaintiff is justly entitled. Plaintiff expressly reserves the right to amend this Rule 47 statement of relief if necessary.

Parties

6. Plaintiff Bernita Barrett is an individual residing in Harris County, Texas.

7. Defendant Metropolitan Transit Authority of Harris County is an entity located in Harris County, Texas. Defendant may be served at its principal place of business, Executive Office, 1900 Main Street, Houston, Texas 77002 by serving Mr. Thomas Lambert, or by serving any member, agent and/or officer.

8. Defendant Harlin Bryant is an individual residing in Harris County, Texas. Defendant Bryant may be served with process at his place of business, 1919 Smith Street, Houston, Texas 77002, or wherever he may be found.

Facts

9. This lawsuit is necessary as a result of personal injuries that Plaintiff received on or about October 7, 2016.

10. At that time, Plaintiff was travelling on the light rail train operated by Defendant METRO. The aforementioned light rail train was travelling northbound in the 3500 block of Main Street approaching Alabama Street. Defendant Bryant was travelling in the same direction on Main Street as Defendant METRO's light rail train. As a result of Defendant METRO's and/or Defendant Bryant's negligence and/or negligence *per se*, Defendant Bryant's vehicle and Defendant METRO's light rail train collided and, consequently, Plaintiff suffered severe injuries to her back, left leg, and other parts of her body.

11. Defendant METRO's aforementioned conduct constitutes negligence and/or negligence *per se* for one or more of the following reasons:

- a. Failed to operate the vehicle safely;
- b. Failed to keep a proper lookout;
- c. Violated applicable, local, state and federal laws and/or regulations;
- d. Negligent hiring and/or retention of employees;
- e. Negligent training and/or supervision of employees; and/or
- f. Other acts so deemed negligent.

12. Defendant Bryant's aforementioned conduct constitutes negligence and/or negligence *per se* for one or more or more of the following reasons:

- a. Turned when unsafe;
- b. Failed to operate the vehicle safely;
- c. Failed to keep a proper lookout;
- d. Failed to timely apply brakes;
- e. Failed to take proper evasive action;
- f. Violated applicable, local, state and federal laws and/or regulations including, but not limited to, § 545.103 of the TEX. TRANS. CODE; and/or
- g. Other acts so deemed negligent.

13. As a result of these acts or omissions, Plaintiff sustained damages recognizable by law. The driver of the light rail train, an employee of Defendant METRO, would be personally liable to Plaintiff under Texas law for those damages, and Defendant METRO is liable for those damages under the doctrine of *respondeat superior*.

Damages

14. By virtue of the actions and conduct of the Defendants set forth above, Plaintiff was seriously injured and is entitled to recover the following damages:

- a. Past and future medical expenses;
- b. Past and future pain, suffering and mental anguish;
- c. Past and future physical impairment;
- d. Past and future physical disfigurement;
- e. Past lost wages and future loss of earning capacity.

15. By reason of the above, Plaintiff is entitled to recover damages from the Defendants in an amount within the jurisdictional limits of this Court, as well as pre and post-judgment interest.

Jury Demand

16. Plaintiff hereby demands a trial by jury.

Request for Disclosure to Defendant

17. Pursuant to Texas Rules of Civil Procedure 194, Plaintiff requests that Defendants disclose, within 50 days of service of this request, the information or materials described in Texas Rule of Civil Procedure 194.2(a)-(l).

Rule 193.7 Notice

18. Plaintiff hereby gives actual notice to Defendants that any and all documents produced may be used against Defendants at any pre-trial proceeding and/or at trial of this matter without the necessity of authenticating the documents.

Conditions Precedent

19. All conditions precedent to Plaintiff's claim for relief have been performed or have occurred.

Prayer

Plaintiff prays that these citations issue and be served upon Defendants in a form and manner prescribed by law, requiring that Defendants appear and answer, and that upon final hearing, Plaintiff has judgment against Defendants, jointly and severally, in a total sum in excess of the minimum jurisdictional limits of this Court, plus pre-judgment and post judgment interests, all costs of Court, and all such other and further relief, to which she may be justly entitled.

[Signature Block on Next Page]

Respectfully submitted,

DASPIT LAW FIRM

/s/ Brent W. Randel

John Arthur Daspit

Texas State Bar No. 24048906

Brent W. Randel

Texas State Bar No. 24099036

440 Louisiana St., Suite 1400

Houston, Texas 77002

Telephone: (713) 588-0383

Facsimile: (713) 587-9086

Email: e-service@daspitlaw.com

ATTORNEYS FOR PLAINTIFF

Unofficial Copy Office of Chris Daniel Daspit

CIVIL CASE INFORMATION SHEET (REV. 2/13)

Chris Daniel - District Clerk
Harris County

CAUSE NUMBER (FOR CLERK USE ONLY):

COURT (FOR CLERK USE ONLY):

Envelope No: 15962692

By: CUERO, NELSON

Filed: 3/20/2017 5:05:15 PM

STYLED Bernitta Barrett v. Metropolitan Transit Authority of Harris County and Harlin Bryant

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

1. Contact information for person completing case information sheet: Name: <u>John Daspit</u> Email: <u>e-service@daspitlaw.com</u> Address: <u>440 Louisiana Street, Suite 200</u> Telephone: <u>713-322-4878</u> City/State/Zip: <u>Houston, Texas 77002</u> Fax: <u>713-587-9086</u> Signature: <u>/s/ John Daspit</u> State Bar No: <u>24048906</u> (Attach additional page as necessary to list all parties)		Names of parties in case: Plaintiff(s)/Petitioner(s): <u>Bernitta Barrett</u> Defendant(s)/Respondent(s): <u>Metropolitan Transit Authority of Harris County</u> <u>Harlin Bryant</u>		Person or entity completing sheet is: <input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____ Additional Parties in Child Support Case: Custodial Parent: _____ Non-Custodial Parent: _____ Presumed Father: _____								
2. Indicate case type, or identify the most important issue in the case (select only 1):												
Civil <table border="1"> <tr> <td> Contract <u>Debt/Contract</u> <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: _____ <u>Foreclosure</u> <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: _____ </td> <td> Injury or Damage <input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <input type="checkbox"/> Malpractice <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: <input checked="" type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises <input type="checkbox"/> Product Liability <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: _____ <input type="checkbox"/> Other Injury or Damage: _____ </td> <td> Real Property <input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to T/F <input type="checkbox"/> Other Property: _____ Related to Criminal Matters <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other: _____ </td> </tr> </table>			Contract <u>Debt/Contract</u> <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: _____ <u>Foreclosure</u> <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: _____	Injury or Damage <input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <input type="checkbox"/> Malpractice <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: <input checked="" type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises <input type="checkbox"/> Product Liability <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: _____ <input type="checkbox"/> Other Injury or Damage: _____	Real Property <input 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<input type="checkbox"/> Reciprocals (UIFSA) <input type="checkbox"/> Support Order </td> </tr> <tr> <td> Other Family Law <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other: _____ </td> <td> Parent-Child Relationship <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child: _____ </td> </tr> </table>			Marriage Relationship <input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void <u>Divorce</u> 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Employment <input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment: _____			Other Civil <input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property <input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other: _____									
Tax <input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax: _____			Probate & Mental Health Probate/Wills/Intestate Administration <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings <input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: _____									
3. Indicate procedure or remedy, if applicable (may select more than 1):												
<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action		<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment		<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover								
4. Indicate damages sought (do not select if it is a family law case):												
<input type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief <input type="checkbox"/> Over \$100,000 but not more than \$200,000 <input checked="" type="checkbox"/> Over \$200,000 but not more than \$1,000,000 <input type="checkbox"/> Over \$1,000,000												

Instructions for Completing the Texas Civil Case Information Sheet

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing. If the original petition, application or post-judgment petition or motion is e-filed, the case information sheet must not be the lead document.

This sheet, required by Rule 78a of the Texas Rules of Civil Procedure, is intended to collect information that will be used for statistical and administrative purposes only. It neither replaces nor supplements the filings or service of pleading or other documents as required by law or rule. The sheet does not constitute a discovery request, response, or supplementation, and it is not admissible at trial.

The attorney or self-represented (*pro se*) plaintiff/petitioner filing the case or post-judgment petition or motion should complete the sheet as follows:

1. Contact information

a) **Contact information for person completing case information sheet.** Enter the following information:

- name;
- address;
- city, state, and zip code;
- email address;
- telephone number;
- fax number, if available;
- State Bar number, if the person is an attorney; and
- signature. (*NOTE: When a case information sheet is submitted electronically, the signature may be a scanned image or "/s/" and the name of the person completing the case information sheet typed in the space where the signature would otherwise appear.*)

b) **Names of parties in the case.** Enter the name(s) of the:

(*NOTE: If the name of a party to a case is confidential, enter the party's initials rather than the party's name.*)

- plaintiff(s) or petitioner(s);
- defendant(s) or respondent(s); and
- in child support cases, additional parties in the case, including the:
 - custodial parent;
 - non-custodial parent; and
 - presumed father.

Attach an additional page as necessary to list all parties.

c) **Person or entity completing sheet is.** Indicate whether the person completing the sheet, or the entity for which the sheet is being completed, is:

- an attorney for the plaintiff or petitioner;
- a *pro se* (self-represented) plaintiff or petitioner;
- the Title IV-D agency; or
- other (provide name of person or entity).

2. Case type.

Select the case category that best reflects the most important issue in the case. *You must select only one.*

3. Procedure or remedy.

If applicable, select any of the available procedures or remedies being sought in the case. You may select more than one.

4. Damages sought.

Select the damages being sought in the case:

(*NOTE: If the claim is governed by the Family Code, do not indicate the damages sought.*)

- only monetary relief of \$100,000 or less, including damages of any kind, penalties, costs, expenses, pre-judgment interest and attorney fees;
- monetary relief over \$100,000 or less and non-monetary relief;
- monetary relief over \$100,000 but not more than \$200,000;
- monetary relief over \$200,000 but less than \$1,000,000; or
- monetary relief over \$1,000,000.

3/20/2017 5:05:15 PM
 Chris Daniel - District Clerk
 Harris County
 Envelope No: 15962692
 By: CUERO, NELSON
 Filed: 3/20/2017 5:05:15 PM

CIVIL PROCESS REQUEST

2017-18994 / Court: 113

FOR EACH PARTY SERVED YOU MUST FURNISH ONE (1) COPY OF THE PLEADING
 FOR WRITS FURNISH TWO (2) COPIES OF THE PLEADING PER PARTY TO BE SERVED

CASE NUMBER: _____ CURRENT COURT: Harris County Judicial District Court

TYPE OF INSTRUMENT TO BE SERVED (See Reverse For Types): Plaintiff's Original Petition

FILE DATE OF MOTION: March 20, 2017
 Month/ Day/ Year

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served):

1. NAME: Metropolitan Transit Authority of Harris County
 ADDRESS: 1900 Main Street, Houston, Texas 77002
 AGENT, (if applicable): Mr. Thomas Lambert

TYPE OF SERVICE/PROCESS TO BE ISSUED (see reverse for specific type): _____

SERVICE BY (check one):

- ☐ ATTORNEY PICK-UP ☐ CONSTABLE
☒ CIVIL PROCESS SERVER - Authorized Person to Pick-up: Proactive Legal Solutions, Box 30 Phone: 832-209-7760
☐ MAIL ☐ CERTIFIED MAIL
☐ PUBLICATION:
 Type of Publication: ☐ COURTHOUSE DOOR, or
☐ NEWSPAPER OF YOUR CHOICE: _____
☐ OTHER, explain _____

2. NAME: Harlin Bryant
 ADDRESS: 1919 Smith Street, Houston, Texas 77002
 AGENT, (if applicable): _____

TYPE OF SERVICE/PROCESS TO BE ISSUED (see reverse for specific type): _____

SERVICE BY (check one):

- ☐ ATTORNEY PICK-UP ☐ CONSTABLE
☒ CIVIL PROCESS SERVER - Authorized Person to Pick-up: Proactive Legal Solutions, Box 30 Phone: 832-209-7760
☐ MAIL ☐ CERTIFIED MAIL
☐ PUBLICATION:
 Type of Publication: ☐ COURTHOUSE DOOR, or
☐ NEWSPAPER OF YOUR CHOICE: _____
☐ OTHER, explain _____

ATTORNEY (OR ATTORNEY'S AGENT) REQUESTING SERVICE:

NAME: John Daspit TEXAS BAR NO./ID NO. 24048906

MAILING ADDRESS: 440 Louisiana Street, Suite 1400, Houston, Texas 77002

PHONE NUMBER: 713 588-0383 FAX NUMBER: 713 587-9086
 area code phone number area code fax number

EMAIL ADDRESS: e-service@daspitlaw.com

SERVICE REQUESTS WHICH CANNOT BE PROCESSED BY THIS OFFICE WILL BE HELD FOR 30 DAYS PRIOR TO CANCELLATION. FEES WILL BE REFUNDED ONLY UPON REQUEST, OR AT THE DISPOSITION OF THE CASE. SERVICE REQUESTS MAY BE REINSTATED UPON APPROPRIATE ACTION BY THE PARTIES.

INSTRUMENTS TO BE SERVED:

(Fill In Instrument Sequence Number, i.e. 1st, 2nd, etc.)

ORIGINAL PETITION

_____ AMENDED PETITION

_____ SUPPLEMENTAL PETITION

COUNTERCLAIM

_____ AMENDED COUNTERCLAIM

_____ SUPPLEMENTAL COUNTERCLAIM

CROSS-ACTION:

_____ AMENDED CROSS-ACTION

_____ SUPPLEMENTAL CROSS-ACTION

THIRD-PARTY PETITION:

_____ AMENDED THIRD-PARTY PETITION

_____ SUPPLEMENTAL THIRD-PARTY PETITION

INTERVENTION:

_____ AMENDED INTERVENTION

_____ SUPPLEMENTAL INTERVENTION

INTERPLEADER

_____ AMENDED INTERPLEADER

_____ SUPPLEMENTAL INTERPLEADER

INJUNCTION

MOTION TO MODIFY

SHOW CAUSE ORDER

TEMPORARY RESTRAINING ORDER

BILL OF DISCOVERY:

ORDER TO: _____
(specify)

MOTION TO: _____
(specify)

PROCESS TYPES:

NON WRIT:

CITATION

ALIAS CITATION

PLURIES CITATION

SECRETARY OF STATE CITATION

COMMISSIONER OF INSURANCE

HIGHWAY COMMISSIONER

CITATION BY PUBLICATION

NOTICE

SHORT FORM NOTICE

PRECEPT (SHOW CAUSE)

RULE 106 SERVICE

SUBPOENA

WRITS:

ATTACHMENT (PROPERTY)

ATTACHMENT (WITNESS)

ATTACHMENT (PERSON)

CERTIORARI

EXECUTION

EXECUTION AND ORDER OF SALE

GARNISHMENT BEFORE JUDGMENT

GARNISHMENT AFTER JUDGMENT

HABEAS CORPUS

INJUNCTION

TEMPORARY RESTRAINING ORDER

PROTECTIVE ORDER (FAMILY CODE)

PROTECTIVE ORDER (CIVIL CODE)

POSSESSION (PERSON)

POSSESSION (PROPERTY)

SCIRE FACIAS

SEQUESTRATION

SUPERSEDEAS



CHRIS DANIEL
HARRIS COUNTY DISTRICT CLERK

ENTERED
VERIFIED

Civil Process Pick-Up Form

*CAUSE NUMBER: 201718994
ATY _____ CIV _____ COURT 1134th

REQUESTING ATTORNEY/FIRM NOTIFICATION	
*ATTORNEY: <u>D. Aspit, M. N. A.</u>	*PH: <u>713-588-0383</u>
*CIVIL PROCESS SERVER: <u>Proactive Legal Solutions</u>	
*PH: <u>Box 30 - 832-209-7700</u>	
*PERSON NOTIFIED SVC READY: <u>Cathy</u>	
*NOTIFIED BY: <u>Rayshane</u>	
*DATE: <u>3/22/2017</u>	

***TYPE OF SERVICE AND TRACKING NUMBER(S)**

Type of Service Document: <u>UT</u>	Tracking Number <u>73354097</u>
Type of Service Document: _____	Tracking Number _____
Type of Service Document: _____	Tracking Number _____
Type of Service Document: _____	Tracking Number _____
Type of Service Document: _____	Tracking Number _____
Type of Service Document: _____	Tracking Number _____

*Process papers prepared by: **JUSTINA LEMON**

*Date: 3/21 2017 *30 days waiting 4 - 21-2017

*Process papers released to:	<u>[Signature]</u> (PRINT NAME)
<u>281-827-5279</u> *(CONTACT NUMBER)	<u>[Signature]</u> (SIGNATURE)
*Process papers released by:	<u>IRIS COLLINS</u> (PRINT NAME)
	<u>[Signature]</u> (SIGNATURE)
* Date: <u>3-23-17</u> , 2017 * Time: <u>1:18</u> AM (PM)	

*Information must be completed

RECORDER'S MEMORANDUM
This instrument is of poor quality
at the time of imaging

4/4/2017 12:52:17 PM
Chris Daniel - District Clerk Harris County
Envelope No. 16256887
By: DELTON ARNIC
Filed: 4/4/2017 12:52:17 PM

CAUSE NO. 201718994

RECEIPT NO.

0.00

CIV

TR # 73354097

PLAINTIFF: BARRETT, BERNITTA

vs.

DEFENDANT: METROPOLITAN TRANSIT AUTHORITY OF HARRIS COUNTY

In The 113th
Judicial District Court
of Harris County, Texas
113TH DISTRICT COURT
Houston, TX

CITATION

45299-1

THE STATE OF TEXAS
County of Harris

TO: METROPOLITAN TRANSIT AUTHORITY OF HARRIS COUNTY MAY BE SERVED
BY SERVING MR THOMAS LAMBERT OR BY SERVING ANY MEMBER, AGENT
AND/OR OFFICER

1900 MAIN STREET HOUSTON TX 77002

Attached is a copy of PLAINTIFF'S ORIGINAL PETITION

This instrument was filed on the 20th day of March, 2017, in the above cited cause number
and court. The instrument attached describes the claim against you.

YOU HAVE BEEN SUED, You may employ an attorney. If you or your attorney do not file a
written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday
next following the expiration of 20 days after you were served this citation and petition,
a default judgment may be taken against you.

TO OFFICER SERVING:

This citation was issued on 21st day of March, 2017, under my hand and
seal of said Court.

Issued at request of:

DASPIT, JOHN A
440 LOUISIANA, SUITE 1400
HOUSTON, TX 77002
Tel: (713) 588-0383
Bar No.: 24048906



Chris Daniel

CHRIS DANIEL, District Clerk
Harris County, Texas
201 Caroline, Houston, Texas 77002
(P.O. Box 4651, Houston, Texas 77210)

Generated By: LEMON, JUSTINA VERNELL
EGZ//10639087

OFFICER/AUTHORIZED PERSON RETURN

Came to hand at 1:34 o'clock P.M., on the 24 day of MARCH, 2017.

Executed at (address) 1900 MAIN STREET HOUSTON TX 77002 in

HARRIS County at 11:40 o'clock A.M., on the 30 day of MARCH,
2017, by delivering to JANET TEZINO defendant, in person, a

true copy of this Citation together with the accompanying 1 copy(ies) of the Petition
attached thereto and I endorsed on said copy of the Citation the date of delivery.

To certify which I affix my hand officially this 30 day of MARCH, 2017.

Fee \$ _____

_____ of _____ County, Texas

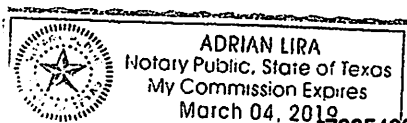
By _____ Deputy

Affiant

9730117

On this day, KEITH BARBIS, known to me to be the person whose
signature appears on the foregoing return, personally appeared. After being by me duly sworn,
he/she stated that this citation was executed by him/her in the exact manner recited on the
return.

SWORN TO AND SUBSCRIBED BEFORE ME, on this 30 day of MARCH, 2017.



Notary Public

N. INT. CITR. P

73354097

CAUSE NO. 2017-18994

BERNITTA BARRETT	§	IN THE DISTRICT COURT OF
	§	
V.	§	HARRIS COUNTY, TEXAS
	§	
METROPOLITAN TRANSIT AUTHORITY	§	
OF HARRIS COUNTY and	§	
HARLIN BRYANT	§	113 th JUDICIAL DISTRICT

DEFENDANT'S ORIGINAL ANSWER AND AFFIRMATIVE DEFENSES

Defendant Metropolitan Transit Authority of Harris County, Texas ("METRO") files this their Original Answer and Affirmative Defenses to Plaintiffs' Original Petition. METRO would respectfully show the Court as follows:

**I.
ANSWER**

A. General Denial

1. As authorized by Rule 92 of the Texas Rules of Civil Procedure, METRO enters a general denial of all matters pleaded by Plaintiff and requests that the Court require the Plaintiff to prove Plaintiff's charges and allegations by a preponderance of the evidence as required by the Constitution and laws of the State of Texas.

**II.
AFFIRMATIVE DEFENSES**

B. Governmental Immunity

2. The Texas legislature has the legal authority to limit the terms of consent to be sued and limit the total dollar amount to which it is willing to subject itself to liability on a claim. *Salvatierra v. Via Metropolitan Transit Authority*, 974 S.W. 2d 179, 182 (Tex. 1998)(citing *Trinity River Authority v. Williams*, 689 S.W.2d 883,886 (Tex. 1985)).

3. The Texas Transportation Code defines METRO. It is a public political entity and corporate body of perpetual succession which exercises public and essential governmental functions. Its operation is not proprietary for any purpose. TEX. TRANSP. CODE ANN. §451.052 (Vernon Supp. 1998), *Salvatierra*, 974 S.W. 2d at 182-183.

4. METRO's enabling statute is section 451 of the Texas Transportation Code which provides, in part, that an Authority [i.e. METRO] is a "governmental unit" under Chapter 101, Civil Practice and Remedies Code. TEX. TRANSP. CODE ANN. §451.052(c) (Vernon Supp. 1998),

5. Defendant invokes the defense of governmental immunity to the extent to which said defense has not been waived by the Texas Tort Claims Act.

C. Statutory Limitations

6. For further answer if necessary, Defendant METRO would also show the Court that pursuant to §101.023(b) of The Texas Tort Claims Act, as a "unit of government" under the Act, METRO's liability is limited to money damages in a maximum amount of \$100,000.00 for each person and \$300,000.00 for each single occurrence for bodily injury or death and \$100,000.00 for each single occurrence for injury to or destruction of property. Additionally, pursuant to §101.024 of the Texas Tort Claims Act, METRO is not subject to exemplary damages.

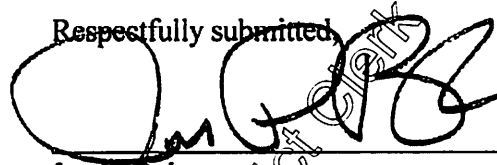
D. Sole and Proximate Cause

7. For further answer, if necessary, this Defendant says that the accident out of which this lawsuit grew, and the consequent injuries, if any, to Plaintiff were not caused by any act of negligence, either of omission or commission, on the part of METRO or its light rail operator, but to the contrary, such injuries and damages alleged by Plaintiff were directly and proximately caused by the negligence of Co-Defendant Harlin Bryant who suddenly and unexpectedly attempted to make a left turn in front of the LRV, but stuck the side of the LRV.

Prayer

WHEREFORE, PREMISES CONSIDERED, this Defendant pray that upon final trial and hearing of this matter, judgment be entered in METRO's favor in accordance with law and the facts, and for such other and further relief to which it may show itself to be justly entitled.

Respectfully submitted,



Jon P. Bohn

SBOT: 02564900

ATTORNEY FOR DEFENDANT

P. O. Box 61429

Houston, Texas 77208-1429

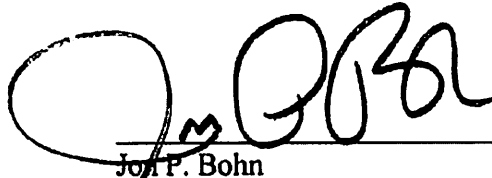
713-652-8020

713-739-4699 Fax

jon.bohn@ridermetro.org

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing instrument has been served upon all Attorneys of Record in accordance with Texas Rules of Civil Procedure 21a, on this 24th day of April, 2017.



Jon P. Bohn

6/2/2017 9:49:14 AM
 Chris Daniel - District Clerk Harris County
 Envelope No. 17382225
 By: Justin Fitzgerald
 Filed: 6/2/2017 9:49:14 AM

CAUSE NO. 201718994

RECEIPT NO.

0.00

CIV

TR # 73354104

PLAINTIFF: BARRETT, BERNITTA

vs.

DEFENDANT: METROPOLITAN TRANSIT AUTHORITY OF HARRIS COUNTY

In The 113th
 Judicial District Court
 of Harris County, Texas
 113TH DISTRICT COURT
 Houston, TX

CITATION

THE STATE OF TEXAS
 County of Harris

TO: BRYANT, HARLIN
 OR WHEREVER HE MAY BE FOUND
 1919 SMITH STREET HOUSTON TX 77002

Attached is a copy of PLAINTIFF'S ORIGINAL PETITION

This instrument was filed on the 20th day of March, 2017, in the above cited cause number and court. The instrument attached describes the claim against you.

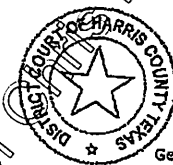
YOU HAVE BEEN SUED, You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of 20 days after you were served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING:

This citation was issued on 21st day of March, 2017, under my hand and seal of said Court.

Issued at request of:

DASPIT, JOHN A
 440 LOUISIANA, SUITE 1400
 HOUSTON, TX 77002
 Tel: (713) 588-0383
 Bar No.: 24048906



Chris Daniel
 CHRIS DANIEL, District Clerk

Harris County, Texas
 201 Caroline, Houston, Texas 77002
 (P.O. Box 4651, Houston, Texas 77210)

Generated By: LEMON, JUSTINA VERNELL
 EGZ//10639087

OFFICER/AUTHORIZED PERSON RETURN

Came to hand at _____ o'clock _____ M., on the _____ day of _____.

Executed at (address) _____ in

_____ County at _____ o'clock _____ M. _____ day of _____.

_____, by delivering to

true copy of this C.

attached thereto and
 To _____ which I a

**AFFIDAVIT
 ATTACHED**

_____ defendant, in person, a

copy(ies) of the Petition

date of delivery.

_____, _____.

_____ of _____ County, Texas

By _____ Deputy

Affiant

On this day, _____, known to me to be the person whose signature appears on the foregoing return, personally appeared. After being by me duly sworn, he/she stated that this citation was executed by him/her in the exact manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME, on this _____ day of _____.

Notary Public

SERVICE AFFIDAVIT

No. 2017-18994

BERNITTA BARRETT

VS.

**METROPOLITAN TRANSIT AUTHORITY
OF HARRIS COUNTY AND
HARLIN BRYANT**

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

113TH JUDICIAL DISTRICT

On this the 30th Day of May, 2017, **Christna Nguyen** appeared before me, the undersigned Notary Public and after being duly sworn, deposed and stated as follows:

1. My name is **Christna Nguyen**. I am over eighteen (18) years of age and am fully competent to make this affidavit. I have personal knowledge of the facts stated herein, and they are true and correct.

2. I am a Certified Civil Process Server authorized under written order of the Supreme Court of Texas service civil process in the State of Texas, including Harris County.

3. I was employed to serve the defendant a copy of Citation & Plaintiff's Original Petition.

4. I am not a party to this case and I have no interest in the outcome of this case.

5. I have never been convicted of a felony or misdemeanor in any City, State or Federal Jurisdiction.

Came to Hand at 12:00pm on 03/27/2017. Served at 3435 Cartwright Cliff Lane, Fulshear, TX 77441 in Fort Bend County on 5/25/2017 at 9:00pm. I hand served a copy of the Citation & Plaintiff's Original Petition to defendant Harlin Bryant.

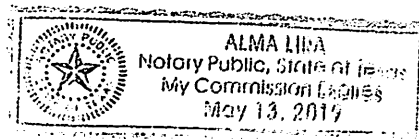
Additional Information: At the time of service, Mr. Harlin Bryant informed me that he could not accept service, he said it needed to be delivered to his employer in DC. I informed him that I needed to personally deliver the paperwork to him, we argued for a little while, so I left the paperwork on his car.

Christina Nguyen
State Certified Civil Process Server
SCH000011798
Exp: 1/31/2019

STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, in and for said county and state, on this the 30th of May, 2017 personally appeared Christina Nguyen, known to me, after being identified through the driver's license, to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that the statements contained in the foregoing affidavit are true and correct.

SUBSCRIBED AND SWORN TO ME on this the 30th of May, 2017.



Notary Public in and for the State of Texas

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

BERNITTA BARRETT,

Plaintiff,

v.

METROPOLITAN TRANSIT
AUTHORITY OF HARRIS COUNTY
AND HARLIN BRYANT,

Defendants.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO.

H: 17-cv-1697

LIST OF ATTORNEYS OF RECORD

The following is a list of the known attorneys:

1. **Plaintiff, Bernitta Barrett, by:**
John Arthur Daspit
Texas Bar No. 24048906
Brent W. Randel
Texas Bar No. 24099036
DASPIT LAW FIRM
440 Louisiana St., Suite 1400
Houston, Texas 77002
Tel: (713) 588-0383
Fax: (713) 587-9086
e-service@daspitlaw.com

2. **Defendant, Metropolitan Transit
Authority of Harris County, by:**
Jon P. Bohn
Texas Bar No. 02564900
P.O. Box 61429
Houston, Texas 77208-1429
Tel: (713) 652-8020
Fax: (713) 739-4699
jon.bohn@ridermetro.org

3. **Defendant, Harlin Bryant, by:**

Fred T. Hinrichs
Assistant U.S. Attorney
Texas Bar No. 24003580
1000 Louisiana, Ste. 2300
Houston, Texas 77002
Tel: (713) 567-9529
Fax: (713) 718-3303
Fred.Hinrichs@usdoj.gov

Respectfully submitted,

ABE MARTINEZ
Acting United States Attorney

/s/ Fred T. Hinrichs

FRED T. HINRICHS
Assistant United States Attorney
Attorney in Charge
Texas Bar No. 24003580
1000 Louisiana, Ste. 2300
Houston, Texas 77002
(713) 567-9529 – Telephone
(713) 718-3303 - Facsimile
Fred.Hinrichs@usdoj.gov
Attorney for Harlin Bryant

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing pleading was electronically served through the court's electronic filing system, or by U.S. Mail postage prepaid, on this 6th day of June 2017, to the following counsel of record:

John A. Daspit
Brent W. Randel
440 Louisiana St., Suite 1400
Houston, Texas 77002

Jon P. Bohn
P.O. Box 61429
Houston, Texas 77208-1429

/s/ Fred T. Hinrichs
Assistant U.S. Attorney